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10/007,355	11/07/2001	Mitchell D. Eggers	GENV-002/00US 300805-2003	3570
58249	7590	08/19/2008	EXAMINER	
COOLEY GODWARD KRONISH LLP			ALEXANDER, LYLE	
ATTN: Patent Group			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MITCHELL D. EGGERS

Appeal 2008-2172
Application 10/007,355
Technology Center 1700

Decided: August 19, 2008

Before BRADLEY R. GARRIS, CHARLES F. WARREN, and
KAREN M. HASTINGS, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

Applicant appeals to the Board from the decision of the Primary Examiner finally rejecting claims 1 through 40 and 59 through 69 in the Office Action mailed December 8, 2005. 35 U.S.C. §§ 6 and 134(a) (2002); 37 C.F.R. § 41.31(a) (2006).

ORDER REQUIRING ADDITIONAL
BRIEFING BY APPELLANT

We order Appellant to additionally brief the following matter.

37 C.F.R. §41.50(d)(2006); Manual of Patent Examining Procedure (MPEP) § 1212 (8th ed., Rev. 3, August 2005).

The appealed claims, as represented by independent claim 1, specify a sample carrier comprising at least, among other things, “discrete sample nodes being removably attached . . . at a respective attachment point.” Appellant responds to the Examiner’s grounds of rejection (Ans. 4-7) with the contention, among others, that the applied “references are silent regarding the attachment [point].” Br., e.g., 6-7, and 9. Appellant further contends that this position is supported by testimonial evidence in a Declaration under 37 C.F.R. § 1.132. Br. 10-11.

However, the “IX. Evidence Appendix” submitted with the Brief filed June 4, 2007, contains only the word “None.” Br. 18. 37 C.F.R. §41.37(c)(ix) requires, in pertinent part, “[a]n appendix containing copies of any evidence submitted pursuant to § . . . 1.132 . . . entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner.” *See also* MPEP § 1205.02 (8th ed., Rev. 3, August 2005).

Accordingly, Appellant is hereby ORDERED to complete the briefing of the issues on Appeal by submission of an Evidence Appendix containing a copy of the Declaration Under 37 C.F.R. § 1.132 relied on in the Brief and a statement setting forth where the Examiner entered the evidence in the record as required by 37 C.F.R. §41.37(c)(ix).

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Appellants have a non-extendable time period of ONE (1) MONTH within which to respond to this Order. Failure to timely comply with this Order may result in *sua sponte* dismissal of the appeal. 37 C.F.R. §41.50(d)(2006); MPEP § 1212 (8th ed., Rev. 3, August 2005).

No time period for taking any subsequent action in connection with this appeal may be extended. 37 C.F.R. § 1.136(a)(1)(iv) (2007).

ORDERED

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